NOTIFY

11/19

COMMONWEALTH OF MASSCHUSETTS

SUFFOLK, ss.

SUPERIOR COURT
CIVIL ACTION
NO. 16-03619

MAURA HEALEY[1]

vs.

TIMOTHY J. CRUZ[2] **& others**[3]

MEMORANDUM OF DECISION AND ORDER ON PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT

INTRODUCTION

notice sent 11.20.18 CB AAG

HP AAG TRK CE+K PC MD

The Commonwealth's Attorney General seeks to enforce an administrative decision from the Supervisor of (Public) Records in the Secretary of State's Office ("the Supervisor") ordering these defendants to comply with a Boston Globe request for various pieces of information and data, found in their offices' case management software, concerning both open and closed criminal investigations and court cases handled in the defendants' offices. As presented, it may seem as though this case pits the public's right to access the records and information held by the district attorneys under G. L. c. 66, § 10 ("the Public Records Law"), against the privacy interests of people accused of, and convicted of, crimes under the Commonwealth's Criminal Offender Record Information statute ("CORI"). That, however, is a false choice. The Public Records Law does not recognize a blanket exemption for records that may otherwise be public simply because those records are held at a district attorney's office. As explained below, both the Public Records Law and CORI protect critical public and personal interests, and both must,

[1] Attorney General
[2] Plymouth County District Attorney
[3] Joseph D. Early, Jr., Middle District Attorney; and Michael D. O'Keefe, Cape and Islands District Attorney

and can, be protected by examining the particular requests and determining whether each is, in fact, already information in the public domain, or whether it is, in fact a CORI-protected record.

The Commonwealth brought a motion for Summary Judgement pursuant to Mass. R. Civ. P. 56 on Counts 1 -5 of the complaint seeking a declaration that certain categories of information requested are subject to disclosure in response to the Boston Globe's public records request. Upon review of the briefs, and after oral argument, the court agrees with the Commonwealth and enters summary judgment in favor of the Commonwealth on Counts 1 – 5, and shall enter the requested declaration.[4]

This genesis for this case arises from a Boston Globe reporter's ("requestor") request to obtain categories of criminal case related information that is stored within the DAMION databases[5] maintained at each of the Commonwealth's eleven district attorney's offices and the Commonwealth's Attorney General's office. After negotiations between the requestor and the public law enforcement offices about the scope of the requests, all of the offices complied with the request, except for the three defendants in this action. These three defendants, the district attorneys for Plymouth County, Worcester County, and the Cape and Islands, declined to produce the requested information. In support of their position, they asserted, *inter alia*, that any response to the requested information would contain Criminal Offender Record Information which is specifically protected by the CORI statute, and therefore they were prohibited from providing the requested information. The requestor then petitioned the Supervisor to determine whether the requested information is a public record and thus properly disclosed. The Supervisor determined that the information was public and ordered these defendants to produce

[4] The court notes its appreciation to all parties for the quality of both the briefs and oral arguments presented in this case.

[5] The DAMION databases are internal case management systems used by the district attorneys' offices. See discussion *infra* at heading B under the Facts section.

the information. However, the defendants again declined to produce the records, maintaining that CORI exempted the requested information from the definition of public records.

The Supervisor then referred the matter to the Attorney General, who filed this action seeking a declaration that the requested information is a public record and asking the court to enter an order requiring the defendants to produce the records. The Attorney General filed this motion for summary judgment and for the reasons that follow, the Attorney General's motion is **ALLOWED**, and a declaration shall enter stating that the Requestor's requests, are public records and must be disclosed.

FACTS

The following facts are drawn from the parties' statement of agreed facts and are not in dispute.

A. The Public Records Request

On January 6, 2015, the Boston Globe requestor submitted a request to these defendants and others pursuant to the Public Records Law. The request sought a copy of the information contained within the defendants' databases primarily from DAMION and as expressed in spreadsheets, including all of the rows, columns, and column titles. Specifically, the requestor sought twenty-two categories of information[6]: (1) case ID number; (2) offense date; (3) case filing date; (4) court name where the case was handled; (5) criminal count number; (6) charge/crime code; (7) charge/crime description; (8) charge/crime type; (9) department that filed the charge; (10) way charge was initiated; (11) defendant ID number; (12) defendant race/ethnicity; (13) defendant gender; (14) name of judge who handled disposition;

[6] As previously noted, these same requests were sent to all district attorneys' offices in the Commonwealth as well as to the Attorney General's Office. The requestor negotiated the scope of his requests with the various offices that ultimately complied with responses. After those negotiations the Attorney General and every district attorneys' office, except for the defendants in this action, complied with the request.

(15) disposition date; (16) disposition code; (17) disposition description; (18) disposition type; (19) disposition or sentence recommended by prosecutor for each charge; (20) sentence type; (21) sentence description; and (22) case status. It is important to note that the requestor did not seek the names of any criminal defendant or accused in any of the requests.

To reply to these requests, as the custodians of these records, each office would presumably need to access and compile responsive data from the offices' case management software known as DAMION.

B. DAMION Case Management Software

The DAMION database is an internal case management software that each of the district attorneys' offices use to track relevant case data for open criminal cases in their offices. Use of the database is customized to needs of each office. Each office has a standalone software application of the DAMION program to manage their casework. The DAMION databases are not linked, connected, or networked between the offices. No office can access information contained in the respective office's DAMION program across offices. While each office may use the database differently, there are several common entries, such as listing the name of the defendant, the court name, docket number, relevant dates, criminal charges, and the case disposition. Additionally, the database contains internal administrative information, unique to each office, including, for example, the office case identification number and the assistant district attorney assigned to the case. Assistant district attorneys and their administrative personnel input information into the database and, understandably, DAMION can only be accessed by employees in each of the offices. Once data is entered into the database, can be organized in a spreadsheet, and then viewed in a printouts or viewed on the computer screen.

C. The Defendants' Responses to the Requests

Each of these defendants informed the requestor that information contained in their DAMION database was not a public record, citing various reasons. For example, the Worcester County District Attorney responded, stating, *inter alia*, that the requested information is protected by the attorney-client privilege because the assistant district attorneys use the database [DAMION] to communicate with the district attorney. [7]

The Plymouth County District Attorney responded stating that no responsive record existed because the request would require his office to create a record compiling the data requested from the various files within their system. In other words, there was no existing document that was responsive to the request. The Plymouth County District Attorney further stated that he was prohibited from disclosing the requested information because the requestor was predominantly seeking information that was within the scope of CORI, which is exempt from public records disclosure. He also stated that his office could not fulfill the request because it would divert office personnel and would cause the computer system to run too slowly to meet the office's day-to-day demands. The Cape and Islands District Attorney responded via letter, also stating that no responsive record existed; that the office was prohibited from disclosing the requested information under the CORI law; and that complying with the request would require his office to divert substantial office resources, which would negatively affect daily operations.

[7] The attorney-client privilege is a common law privilege and while it is not expressly codified in the statutory exemptions to the public records law the SJC has recognized it as an implied exemption in *Suffolk Constr. Co.* v. *Division of Capital Asset Mgt.*, 449 Mass. 444 (2007). It was because this privilege is a bedrock legal principle and the Court reasoned that the Legislative did not intend to disadvantage a governmental agency seeking candid legal advice and thus, if the material is attorney – client privileged, then it is exempted as a public records.

D. Response by Supervisor of Public Records

Upon learning that these defendants would not produce the requested information, the requestor next petitioned the defendants' denial of his request to the Supervisor pursuant to G. L. c. 66, § 10 (b),[8] to determine whether the requested information qualified as a "public record" as defined under the law. The Supervisor determined that the Worcester County District Attorney's response was inadequate because he failed to explain specifically why the requested information was exempt as "attorney client" privileged. On May 18, 2015, the Supervisor issued an order requiring the Worcester County District Attorney to produce the requested information within ten days. The order further provided that if the Worcester County District Attorney planned to withhold any of the requested information, his office must establish specifically what exemption applied; and if his office planned to assert attorney-client privilege, then it must provide a privilege index.

The Worcester County District Attorney responded to the Supervisor, maintaining that his office was not required to disclose the requested information, because: (1) the request essentially sought the office's entire database and therefore lacked specificity; (2) the database contains communications protected by the attorney-client privilege; (3) the database itself is exempt from disclosure under G. L. c. 266, § 120F, which prohibits unauthorized access to computer systems; and (4) it would require the office to create a record for the requestor.

The Worcester County District Attorney's Office responded to the Supervisor in a letter to the Deputy Attorney stating that it believed that the Supervisor misapprehended the level of specificity that is required to establish an exemption to the Public Records Law. Within days of

[8] In relevant part, G. L. c. 66, § 10 (b) provides: "If the custodian refuses or fails to comply with such a request, the person making the request may petition the supervisor of records for a determination whether the record requested is public."

that letter, the Supervisor issued an administrative order that combined the requestor's appeal from all ten responses he received from the district attorneys' offices, including the three defendants in this case. The Supervisor ordered the defendants to provide to the requestor a revised written response within ten days.

On August 24, 2015, the Cape and Islands District Attorney responded to the Supervisor stating the District Attorney again declined to produce the requested information because the request was CORI-protected and thus exempt from public records. The letter explained that the requestor sought case ID numbers and defendant ID numbers, which would allow the requestor to determine the identities of certain criminal defendants in violation of the CORI law. The Cape and Islands District Attorney further explained that the request for all criminal docket numbers was distinguishable from the current case law that addressed a request for docket numbers for certain types of criminal cases. In addition, the letter suggested that the requestor intended to create a private database of criminal case information for a commercial purpose and indicated that the Supervisor could deny the requestor's appeal on that ground.

Two days later, on August 26, 2015, the Plymouth County District Attorney again responded and stated that the Criminal Justice Information System ("CJIS") should be allowed to make the initial determination as to whether the requested information qualifies as CORI. Otherwise, they contended, by allowing the requestor to create a database that essentially mirrored the CJIS's database they would violate the CORI law. Moreover, the requested information, when pieced together, could disclose the identities of criminal defendants, witnesses, and other individuals. The Plymouth County District Attorney reaffirmed his position that his office was not required to comply with the request because doing so would require his office to create a new record to comply with the request.

On December 31, 2015, the Supervisor issued another order, requiring these three defendants to provide responsive records to the requestor within ten days, subject to any applicable Public Records Law exemptions. These defendants again declined to produce the records.[9]

On June 30, 2016, the Supervisor referred the matter to the Attorney General to enforce its December 31, 2015 order. The Attorney General, thereafter, filed a complaint in the Superior Court seeking a declaration that the requested information is a public record and an order compelling the defendants to produce the information. The Attorney General now moves for summary judgment on counts 1 – 5 of its complaint and seeks a declaration stating that various categories of the requests are public records and subject to production and other categories must be disclosed because these defendants failed to make the requisite specific showing that the records are exempt under the Public Records Law.

DISCUSSION

I. Standard of Review

"Summary judgment is appropriate where there are no genuine issues of material fact and the moving party is entitled to judgment as a matter of law." *Godfrey* v. *Globe Newspaper Co., Inc.*, 457 Mass. 113, 118-119 (2010). "The moving party bears the burden of demonstrating the absence of a triable issue of fact on every relevant issue." *Scholz* v. *Delp*, 473 Mass. 242, 249 (2015). In determining whether the moving party is entitled to judgment as a matter of law, the evidence is viewed in the light most favorable to the nonmoving party. *Harrison* v. *NetCentric Corp.*, 433 Mass. 465, 468 (2001). However, "the opposing party cannot rest on his or her

[9] The Worcester County District Attorney responded via letter January 19, 2016; the Plymouth District Attorney responded via letter date January 22, 2016; and the Cape and Islands District Attorney responded via letter dated January 26, 2016.

pleadings and mere assertions of disputed facts to defeat the motion for summary judgment." *LaLonde* v. *Eissner*, 405 Mass. 207, 209 (1989). "Conclusory statements, general denials, and factual allegations not based on personal knowledge are insufficient to avoid summary judgment." *Madsen* v. *Erwin*, 395 Mass. 715, 721 (1985) (internal modifications omitted).

Here, the parties agree on the salient facts. They instead dispute the proper application of the public records law to this public records request. As explained below, on this record, the court concludes that the Attorney General is entitled to judgment as a matter of law.

II. Public Records Law

The Massachusetts Public Records Law, G. L. c. 66, § 10 (a), provides that: "every person having custody of any public record, as defined in [G. L. c. 4, § 7, cl. 26], shall, at reasonable times and without unreasonable delay, permit it, or any segregable portion of a record which is an independent public record, to be inspected and examined by any person, under his supervision, and shall furnish one copy thereof upon payment of a reasonable fee."[10] The term "public records" is defined in G. L. 4, §7, cl. 26, as "all books, papers, maps, photographs, recorded tapes, financial statements, statistical tabulations, or other documentary materials or

[10] At time the requestor submitted his request, the 2015 version of G. L. c. 66, § 10, was in effect. The language in the current version of the statute does not change the court's analysis. The current version provides:

> A records access officer appointed pursuant to section 6A, or a designee, shall at reasonable times and without unreasonable delay permit inspection or furnish a copy of any public record as defined in [G. L. c. 4, § 7, cl. 26], or any segregable portion of a public record, not later than 10 business days following the receipt of the request, provided that:
>
> (i) the request reasonably describes the public record sought;
>
> (ii) the public record is within the possession, custody or control of the agency or municipality that the records access officer serves; and
>
> (iii) the records access officer receives payment of a reasonable fee as set forth in subsection (d).
>
> A request for public records may be delivered to the records access officer by hand or via first class mail at the record officer's business address, or via electronic mail to the address posted by the agency or municipality that the records access officer serves.

data, regardless of physical form or characteristics, made or received by any officer or employee of any agency, executive office, department, board, commission, bureau, division or authority of the commonwealth, . . . unless such materials or data fall within the following exemptions . . . ." G. L. c. 4, § 7, cl. 26(a) – (u).[11] The Public Records Law permits the public to shine a light on the daily workings and operations of public offices and their employees thorough access to public records and data. The Legislature recognized that the public "has an interest in knowing whether their public servants are carrying out their duties in an efficient and law abiding manner." *Attorney Gen. v. Collector of Lynn*, 377 Mass. 151, 158 (1979). Transparency in government operation and access to government information is believed to further enhance public confidence in government and its operation. See *Worcester Tel. & Gazette Corp. v. Chief of Police of Worcester*, 436 Mass. 378, 382-383 (2002).

---

[11] Twenty-sixth, "'Public records' shall mean all books, papers, maps, photographs, recorded tapes, financial statements, statistical tabulations, or other documentary materials or data, regardless of physical form or characteristics, made or received by any officer or employee of any agency, executive office, department, board, commission, bureau, division or authority of the commonwealth, or of any political subdivision thereof, or of any authority established by the general court to serve a public purpose, or any person, corporation, association, partnership or other legal entity which receives or expends public funds for the payment or administration of pensions for any current or former employees of the commonwealth or any political subdivision as defined in section 1 of chapter 32, unless such materials or data fall within the following exemptions in that they are:

(a) specifically or by necessary implication exempted from disclosure by statute;

(b) related solely to internal personnel rules and practices of the government unit, provided however, that such records shall be withheld only to the extent that proper performance of necessary governmental functions requires such withholding;

(c) personnel and medical files or information; also any other materials or data relating to a specifically named individual, the disclosure of which may constitute an unwarranted invasion of personal privacy;

(d) inter-agency or intra-agency memoranda or letters relating to policy positions being developed by the agency; but this subclause shall not apply to reasonably completed factual studies or reports on which the development of such policy positions has been or may be based;

(e) notebooks and other materials prepared by an employee of the commonwealth which are personal to him and not maintained as part of the files of the governmental unit;

(f) investigatory materials necessarily compiled out of the public view by law enforcement or other investigatory officials the disclosure of which materials would probably so prejudice the possibility of effective law enforcement that such disclosure would not be in the public interest...."

The remaining exemptions are not set forth in this footnote the interest of relevancy and space.

Under G. L. c. 66, § 10, the Public Records Law, the presumption is that all government records are public, unless an exemption applies. This presumption is set forth right in the body of the law. It states:

> (c) [i]n any court proceeding pursuant to paragraph (b) there shall be a presumption that the record sought is public, and the burden shall be upon the custodian to prove with specificity the exemption which applies. If a records request is rejected on the basis of a public records exemption then the burden shifts to the record holder to assert an exemption under the Public Records Law with specificity." (emphasis added)

G. L. c. 66, § 10 (c).

Broad access to public records is further bolstered by the Court's instruction that each must be reviewed to determine if a specific exemption applies. See *People for the Ethical Treatment for Animals, Inc. v Department of Agric. Resources*, 477 Mass. 280, 281-282 (2017); *In re Subpoena Duces Tecum*, 445 Mass. 685, 688 (2006)("[w]e have stated that a case-by-case review is required to determine whether an exemption applies.")

What constitutes a public record, in our electronic age, is not limited by its physical form or characteristics, as G. L. c. 4, § 7, cl. 26 recognized. Consequently, electronically stored data, though not in a paper record format nor kept in a metal file cabinet, is nonetheless a public record unless an exemption applies. It follows then, that these defendants, as the custodians of the requested information, must produce the requested information unless they prove that a specific exemption shields this information from the Public Record Law. See *Georgiou* v. *Commissioner of Dep't of Indus. Accidents*, 67 Mass. App. Ct. 428, 431 (2006) (documents "held by agencies . . . are presumed to be public records unless the [custodian] can prove *with specificity* that the documents or parts of the documents fall within one of the … enumerated statutory exemptions.") (emphasis added). Further, the enumerated exemptions to the Public

Records Law must be "strictly construed." *Hull Mun. Lighting Plant v. Massachusetts Mun. Wholesale Elec. Co.*, 414 Mass. 609, 614 (1993).

There are three exemptions that the defendants claim excuse their production of the requested information. that the records are: (1) materials that "are specifically or by necessary implication exempted from disclosure by statute" G. L. c. 4, § 7, cl. 26 (a); (2) materials that qualify as "inter-agency or intra-agency memoranda or letters relating to policy positions being developed by the agency" G. L. c. 4, § 7, cl. 26 (d); and (3) "investigatory materials necessarily complied out of the public view by law enforcement or other investigatory officials the disclosure of which materials would probably so prejudice the possibility of effective law enforcement that such disclosure would not be in the public interest." G. L. c. 4, § 7, cl. 26 (f). [12] These objections to the requests can be viewed in the context whether or not the application of CORI precludes disclosure.[13] We turn next to an overview of the CORI statutory scheme.

III. The Criminal Offender Records Information Law

Massachusetts has enacted legislation to restrict the dissemination of a person's criminal history, CORI, which is shorthand for criminal offender records information. The law seeks to strike a balance between public safety and an individual's privacy. In part, its objective is to prevent stigmatizing people formerly involved in the criminal justice system whose information if widely known, might prevent a person's successful reintegration in society.

The legislature has defined CORI as "records and data in any communicable form compiled by a Massachusetts criminal justice agency which concern an identifiable individual

[12] The defendants' claim that the attorney client, or work product privilege also applied to some of these requests is also addressed *infra*.

[13] To the extent that these three defenses are not coextensive with the exemption argued as CORI protected by the defendants, then as the court *infra* ruled, consistent with the Supervisor's conclusion, the defendants have failed to meet their burden to demonstrate with specificity that any of the public records exemptions apply.

and relate to the nature or disposition of a criminal charge, an arrest, a pre-trial proceeding, other judicial proceedings, previous hearings conducted pursuant to [G. L. c. 276, § 58A] where the defendant was detained prior to trial or released with conditions under [G. L. c. 276, § 58A (2)], sentencing, incarceration, rehabilitation, or release" (emphasis added). G. L. c. 6, § 167. The statute sets forth various limitations on who may access CORI and how CORI can be disseminated.[14]

Over time, the Legislature has amended the statute. "In 2010, the Legislature enacted extensive reforms to the CORI scheme, extending access to official CORI records to more employers, housing providers, and other organizations, for limited use, and simultaneously broadening the scope of the sealing provisions to enable more individuals to shield their records from public purview." *Commonwealth* v. *Pon*, 469 Mass. 296, 297 (2014), citing St. 2010, c. 256. This amendment sought to fine-tune the balance between public safety and personal privacy interests. Specifically, the 2010 CORI reform implemented three significant changes: (1) extending access to more entities with an interest in acquiring CORI by creating a tiered access structure; (2) creating additional procedural protections for criminal defendants by limiting when prospective employers may question individuals about their criminal history; and (3) increasing the availability of the CORI law's sealing protections. *Id.* at 303-306.

To ensure the proper access to a person's CORI, the 2010 CORI reform also created the Criminal Justice Information Services (CJIS); See G. L. c. 6, § 167A. CJIS maintains CORI in an electronic database, and allows tiered-access to CORI depending on the type of entity or

[14] Criminal offender record information must be kept in an electronic database that criminal justice agencies have full access to in their performance of their duties. Non-criminal justice agencies may also make requests to access portions of a subject's criminal history for limited purposes such as employment, internships, volunteer work, to evaluate an applicant for leasing or rental of housing, or to evaluate an applicant for professional licenses. The access is restricted to felony and misdemeanor convictions that are within a limited window of years as set forth in the statute. G. L. c. 6, § 172 (a) (3).

requestor seeking the information. See G. L. c. 6, § 172. By way of example only, law enforcement, or a potential employer, or a potential landlord would each have different levels of access to a person's CORI.

As previously explained, the presumption is that a request is a public record unless it is proved to fall within an exemption. When examining the applicability of a CORI exemption, the custodian must take a further step because CORI has certain carve outs for what would otherwise meet the definition of CORI. Specifically it states:

> (m) Notwithstanding this section or chapter 66A, the following shall be public records: (1) police daily logs, arrest registers, or other similar records compiled chronologically; (2) chronologically maintained court records of public judicial proceedings; (3) published records of public court or administrative proceedings, and of public judicial administrative or legislative proceedings; and (4) decisions of the parole board as provided in section 130 of chapter 127. (emphasis added)

G. L. c. 6, § 172 (m). Thus, the Legislature has deemed, for example, "chronologically maintained court records of public judicial proceedings" to be public records and specifically exempted from CORI requirements.

IV. Analysis

The thrust of the defendants' argument is that the CORI law, not the Public Records Law, governs and thus controls what information, if any, may be released in response to the requestor's requests. The defendants maintain that the CORI statute must be applied in the first instance to determine whether the requested information is CORI and, if so, then the public records analysis ends and nothing must be disclosed. The defendants also raised several alternative arguments, asserting that they have met their burden to establish that the requested information is otherwise exempt under the Public Records Law.

The Attorney General rejects the defendants' contention that this request presents a conflict between CORI and the Public Records Law. Further, she argues that the defendants have not satisfied their burden to demonstrate with specificity that the requested information falls within one or more of the other exemptions to the Public Records Law.

The public records law instructs that all records are presumed public, and to rebut that presumption the defendants must demonstrate that an exemption applies to excuse their production. The defendants claim that these requests are for materials that "are specifically or by necessary implication exempted from disclosure by statute." G. L. c. 4, § 7, cl. 26(a). The CORI law is one such specific exemption. See G. L. c. 6, § 172. After review and hearing, the court holds that the defendants must comply with the Supervisor's order for the production of records because either, or both, (1) the requests are public records, not CORI protected, and (2) the defendants' have failed to meet their burden to prove one or more of the twenty exemptions under the Public Records Law precludes the requested production.

This court addresses each of the defendants' arguments in turn.

A. <u>These Requests are not Exempted from Public Records as CORI</u>

The defendants' fundamental objection is that the requests seek information that is CORI protected and so the CORI law, not the Public Records Law, governs its dissemination. Therefore, they maintain there is no need to further analyze the requests under the Public Records Law or make any disclosure. This court disagrees.

The analysis must start with the Public Records Law, not CORI. There must be a determination whether the defendants rebutted the public record presumption by showing, on a request-by-request basis, with the requisite specificity, that an exemption, which must be narrowly construed, exempts the request from the Public Records law. See *Hull Mun. Lighting*

Plant v. *Massachusetts Mun. Wholesale Elec. Co.*, 414 Mass. 609, 614 (1993) ("Public records are broadly defined and include all documentary materials made or received by an officer or employee of any corporation or public entity of the Commonwealth, unless one of [the] statutory exemptions is applicable."). There is no specific exemption for records simply because they are held by the district attorney's office. See e.g. *In re Subpoena Duces Tecum*, 445 Mass. 685 (2006) (district attorney who moved to quash a subpoena for videotaped interviews of children from a closed investigation had to meet burden under one of the exemptions, in that case it was invasion of privacy (G. L. c. 4, §7, cl. 26(c)) and that the videotapes were investigatory materials G. L. c. 4, § 7, cl. 26(f)).

The defendants' truncated analysis misconstrues the relationship between the CORI and the Public Records Law. These statutes are not in opposition and should instead be harmonized to achieve the respective objectives. See *Risk Mgt. Found. of Harvard Med. Insts. v. Commissioner of Ins.*, 407 Mass. 498, 503 (1990) (when analyzing a statute, the court has counseled that "[w]e should strive, when faced with a seemingly intractable statutory provision, to harmonize the troublesome passages, not to pretend that one of the passages does not exist.")

The defendants contend that any response would implicate CORI because the responses would include identifiable individuals and contain their individual criminal histories. See G. L. c. 6, § 7. It must be noted that this broad brush response fails to meet the defendants' burden to rebut the public record presumption as CORI exempted because the defendants did not perform a category by category approach to explain why a particular requested category meets this exemption. Further, the requestor sought categories of information in a disaggregated way and did not ask for the criminal history of any particular person. Therefore, these requests are not CORI in as much as CORI applies only to: "records and data in any communicable form

compiled by a Massachusetts criminal justice agency which concern an identifiable individual . . ." (emphasis added). G. L. c. 6, § 167.

Arguably, given all of the requested categories of information, one might be able to puzzle together a history for a particular individual. But it is also true that all but, perhaps the ADA's case disposition recommendation and defendant's ID number, are the types of information any member of the public could access by attending a court session, or reviewing a docket or court file in the clerk's office. The only difference in this instance is that the requestor is seeking the data from DAMION instead of from various public sources to obtain the same information. The requestor is seeking the DAMION data inputs such as case name, criminal charges, and the gender or ethnicity of the defendant etc., which, though perhaps not stored on currently on paper record, such records can be generated and produced from the defendants' electronic files. Finally, even if one or more of these requests was for information not publicly available, that could, possibly, reveal personal information these defendants have failed to make such a showing and thus have not met their burden to overcome the presumption that these are public records.[15]

Notwithstanding the scant request-by-request analysis, a review of the requested information makes clear it is not specific to any person. These requests does not ask for the names or identities of any defendant or accused. They instead seek categories of information about cases, crimes, sentencing recommendations, judicial dispositions and the like.[16]

---

[15] Cf. *Globe Newspaper Co.* v. *District Attn'y for the Middle Dist.*, 439 Mass. 374, 385 (2003) (explaining that district attorneys possess information not generally revealed in court records related to defendants' personal backgrounds that qualifies as CORI).

[16] The requests are for the following categories: (1) case ID number; (2) offense date; (3) case filing date; (4) court name where the case was handled; (5) criminal count number; (6) charge/crime code; (7) charge/crime description; (8) charge/crime type; (9) department that filed the charge; (10) way charge was initiated; (11) defendant ID number; (12) defendant race/ethnicity; (13) defendant gender; (14) name of judge who handled disposition; (15) disposition date; (16) disposition code; (17) disposition description; (18) disposition type; (19) disposition or

Alternatively, assuming that the requested information contained what might be otherwise be CORI, the requested information is nevertheless a public record because it qualifies under one of the CORI statute's exemptions. General Laws c. 6, § 172 (m), classifies four categories of information as public records, even though they may otherwise come within the definition of CORI. Three of the four are relevant here. Specifically: "the following shall be public records: (1) police daily logs, arrest registers, or other similar records compiled chronologically; (2) chronologically maintained court records of public judicial proceedings; (3) published records of public court or administrative proceedings, and of public judicial administrative or legislative proceedings . . . ." G. L. c. 6, § 172 (m). Examine, for example, the requests seeking: (4) court name where the case was handled; (6) charge/crime code; (7) charge/crime description; (8) charge/crime type; (14) name of judge who handled disposition; (15) disposition date; (16) disposition code; (17) disposition description; (18) disposition type; (19) disposition or sentence recommended by prosecutor for each charge; (20) sentence type; (21) sentence description; and (22) case status and ask whether each is seeking information that could be found in the chronologically maintained court records. Are these categories the types of information maintained in public court records? If yes, as this court concludes, then, these requested categories are public records because CORI expressly provides for it. Cf. *In re Subpoena Duces Tecum* at 690 (in a dispute over the request for a videotape, the court noted that "[p]reventing disclosure of the videotapes would not prevent disclosure of information that is, apparently, already known). Similarly here, much of the requested data is information already in the public domain from court records.

---

sentence recommended by prosecutor for each charge; (20) sentence type; (21) sentence description; and (22) case status.

In 2003, the Supreme Judicial Court decided a virtually identical case as the one at bar. Just as in this case the Boston Globe's public records request was rejected by several district attorneys who asserted, under an earlier version of CORI, pre 2010 amendment, that the requested information was exempted. A close reading of that case reveals that its reasoning applies with equal force in this case, notwithstanding the 2010 CORI amendments. In *Globe Newspaper Co.* v. *District Attn'y for the Middle Dist.*, 439 Mass. 374 (2003), the court was asked to decide whether court docket numbers contained in the district attorneys' files constituted "public records." The found that they were. *Id.*

As here, a Boston Globe reporter made a public records request to the Attorney General's Office and several district attorneys' offices seeking the docket numbers, defendant names, municipalities, and criminal charges for cases that were related to municipal corruption cases. *Id.* at 375. The requests did not seek information regarding any particular defendant. Six of the district attorneys declined, stating that the CORI Law prohibited them from doing so. *Id.* at 376. The issues were eventually distilled down to a dispute over whether the Boston Globe could obtain court docket numbers from the district attorney's offices as an exception to the CORI public records exemption because they were "chronologically maintained court records of public judicial proceedings." *Id.* at 382.

The SJC held that the requested docket number information was a public record because it fell within the CORI statute's exception for chronologically maintained court records. *Id.* at 382. The court reasoned that it did not matter that in that context, the "court records" were in the district attorneys' possession. *Id.* at 382-383. The SJC explained that "if the item sought is a court record that could be obtained from the clerk's office, it is a public record, and it may be

obtained from any other government official who also happens to have a copy of that same public record." *Id.* at 383 (footnote omitted).

The SJC construed "court records" broadly, stating that if there was any ambiguity "whether the term 'court records' refer[red] only to those records copies that are physically located within a courthouse, that ambiguity must be resolved in favor of disclosure." *Id.* The court rejected the notion that accessing information found typically in court records but instead obtained from a district attorney's office undermined the purpose of CORI. *Id.* at 384. The court reasoned:

> A record does not cease to be a "court" record when it is distributed to the parties in the case, here to the district attorney prosecuting the case. It retains its original character as a court record and hence a "public record" without regard to which entity has a copy. ... The court's record's status as a public record does not depend on the identity of the custodian from whom that public record is sought.

Id. at 383.

This court can discern no material change in the 2010 CORI statute that would disturb the SJC's holding in the *Globe Newspaper Co.* case. The fact that in 2010 the CJIS was created to administer CORI does nothing to change the court records exception under the CORI exemption to the Public Records Law. G. L. c. 6, § 172 (m). In other words, the 2010 CORI amendment did not change the law in Massachusetts that chronologically maintained court records of public judicial proceedings are public records.

In the instant Boston Globe request, all but three of the twenty-two categories requested are the equivalent of "court records" under the *Globe Newspaper Co.* analysis and are thus properly considered public records.[17] The format of the "record" is not outcome determinative.

[17] The three exceptions are: (1) case ID number, (11) the defendant ID number and (19) the disposition or sentence recommended by the prosecutor for each charge. These categories may, or may not, be something that can be found in court records.

Today records are maintained electronically and are stored in the defendants' DAMION programs, similar to court case management systems, which electronically maintain the relevant case-related data. Paper records can be, and are, created as necessary but the raw data comes from publically available court information that is then stored in the defendants' case management software.

There are twenty – two categories requested.[18] All but three of these are exempted from CORI because they are court records.[19] Nineteen of the twenty-two categories of requested information qualify as chronologically maintained court records and are therefore properly considered to be public records, not CORI protected. See G. L. c. 6, § 172 (m) (chronologically maintained court records are not CORI). By way of example, offense dates; case filing dates; court name where the case was handled; criminal count numbers; charge/crime codes; charge/crime descriptions; charge/crime type; department that filed the charge; way charge was initiated; defendant race/ethnicity; defendant gender; name of judge who handled disposition; disposition dates; disposition codes; disposition descriptions; disposition types; sentence type; sentence descriptions; and case statuses are all types of information that are presumably available in the case file at a clerk's office. Although the breadth of information requested in these

[18] They are: 1) case ID number; (2) offense date; (3) case filing date; (4) court name where the case was handled; (5) criminal count number; (6) charge/crime code; (7) charge/crime description; (8) charge/crime type; (9) department that filed the charge; (10) way charge was initiated; (11) defendant ID number; (12) defendant race/ethnicity; (13) defendant gender; (14) name of judge who handled disposition; (15) disposition date; (16) disposition code; (17) disposition description; (18) disposition type; (19) disposition or sentence recommended by prosecutor for each charge; (20) sentence type; (21) sentence description; and (22) case status.

[19] Those are the: (1) case ID number, (11) the defendant ID number and (19) the disposition or sentence recommended by the prosecutor for each charge. Arguably these are categories of information particular to each district attorney's office and not otherwise in the public domain. These categories may, or may not, be something that can be found in court records. If a sentencing memorandum is filed with the court, for example, that document will be docketed and filed and would be available in the court's criminal file. However, a sentencing memorandum may not be filed in each case.

twenty-two categories is greater than in *Globe Newspaper Co.*, the SJC's sound reasoning controls and recent amendments to the CORI statute do not overrule it.

The defendants argue that *Globe Newspaper Co.* is not controlling in this case for two reasons. First, the defendants contend that because the 2010 CORI reform enacted greater restrictions on the ability to access CORI, *Globe Newspaper Co.*'s reasoning is no longer applicable. This court disagrees. As explained above, the 2010 CORI reform created a tiered structure that generally broadened access to CORI. See *Commonwealth* v. *Pon*, 469 Mass. at 303-305. The protective aspects of the reform were primarily geared towards making it easier for defendants to seal their criminal records. See *id.* at 297, 305-306. Moreover, the 2010 reform did not alter the CORI statute's exemption for chronologically maintained court records. See *id.* at 303-308 (discussing 2010 CORI reform).

The defendants' second argument that *Globe Newspaper Co.* is not controlling is that the volume of information requested in this case is far greater than the docket numbers requested in *Globe Newspaper Co.* They argue that the requestor, or others who make similar requests, could use the breadth of information to reveal individually identifying CORI information. See G. L. c. 6, § 167 (defining CORI as criminal records that relate to an "identifiable individual"). The Attorney General concedes that individually identifying information could be discovered. But the fact that individually identifying information *could* be discovered by *someone* requesting the same information does not convert the information requested in this case to CORI.[20] Again

[20] Moreover, if the requestor had unlimited time and recourses he could sit in the courtrooms across the Commonwealth and over days, weeks, months and years create this information based upon the public access to the court's daily business in courtrooms and in the files maintained by the Clerk's Offices across the state. However, these defendants have aggregated this otherwise public data into their state purchased software for their use as a case management system. The software, DAMION, can be used to generate reports, and spreadsheets that are populated by information that is already in the public domain.

the burden is on these defendants to show with specificity that one of the enumerated, limited, exemptions to the Public Records Law precludes providing the requested information.

Looking at these requests, category by category, there are arguably three categories of information that would not be found in court records. Those are the (1) case ID number, (11) the defendant ID number and (19) the disposition or sentence recommended by the prosecutor for each charge. The case ID and defendant ID may be information internally generated in the DAMION system to permit the office to keep track of cases and defendants, and may not be found in any court records. However, the defendants have not overcome the presumption that these three categories are not public records simply by showing that they do not fall within an exception to an exemption under CORI.

Lastly, this court's determination that CORI does not exempt the twenty-two categories of information requested from disclosure is consistent with the public policy expressed in *Globe Newspaper Co.*, which held

> The CORI statute is not intended to shield officials in the criminal justice system from public scrutiny. Evaluation of a district attorney's performance of necessity involves review of that district attorney's cases, e.g., the types of cases prosecuted, the results achieved, the sentences sought and imposed. Requiring district attorneys to respond to public records requests for docket numbers [and other related information] of particular types of cases prosecuted by their offices facilitates that review without undermining the CORI statute.

Globe Newspaper Co., 439 Mass. at 384.

CORI does not prevent these defendants from complying with the Supervisor's order to respond to the requests. *Globe Newspaper Co.* remains controlling law today and this court finds its reasoning compelling in this case.

B. The Defendants Have Not Demonstrated with Specificity that Any Exemption to the Public Records Law Applies

In responding to both the requestor and the Supervisor, the defendants asserted that the requested information was exempt because it is protected by the attorney-client privilege and the work product doctrine; the request would require the creation of a record; the information is exempt under G. L. c. 4, § 7, cl. 26(c) and (f) because it would allow particular defendants to be identified; the request is unduly burdensome; the request serves commercial purpose;[21] CJIS should have the opportunity in the first instance to determine whether the requested information is CORI; and that the request violates the Trial Court Uniform Rules on Public Access to Court Records.

Notably, in their memorandum, apart from their CORI defense the defendants pressed only three of the above grounds: (1) the requested information is protected by the work product doctrine; (2) that the request would require the defendants to create a record; (3) the request violates the Trial Court Uniform Rules on Public Access to Court Records. The defendants failed to carry their burden on all three grounds.

1. Work Product Privilege

Work product materials, or "materials prepared in anticipation of litigation" [22] as they are referred in Mass. R. Civ. P. 26 (b)(3), are not expressly exempted under the public records law. Consequently, as here, they are often sought to be exempted from the public records law under exemption (d); which may also be referred to as the "deliberative process" exemption. See

---

[21] Under 950 Code Mass. Regs. § 32.08(2)(b), the Supervisor may deny the appeal of a record holder's refusal to comply with a public records request where "the public records request is made solely for a commercial purpose." Although the issue of whether a journalist's request for a public record is made for a commercial purpose raises an interesting question, this regulation does not apply to the circumstances of this case. At no point did the supervisor deny the requestor's appeal in this case. Nor did the Supervisor consider whether the request was for a "commercial purpose."

[22] The work product doctrine is defined under Mass. R. Civ. P. 26 (b)(3) are trial preparation materials, prepared in anticipation of litigation.

DaRosa v. City of New Bedford, 471 Mass. 446, 450 (2015). The exemption is for: "[i]nter – agency and intra agency memoranda ... relating to policy decisions being developed by an agency." [23] G. L. c. 4, § 7, cl. 26(d) ("exemption d").

The defendants argue that their offices' work product, as reflected in their databases, is exempt from disclosure under G. L. c. 4, § 7, cl. 26(d) and (f). Subsection (d) provides an exemption for "inter-agency or intra-agency memoranda or letters relating to policy positions being developed by the agency." *Id.* § 7, cl. 26(d). That subsection, however, does "not apply to reasonably completed factual studies or reports on which the development of such policy positions has been or may be based." *Id.* Subsection (f), on the other hand, provides an exemption for "investigatory materials necessarily compiled out of the public view by law enforcement or other investigatory officials the disclosure of which materials would probably so prejudice the possibility of effective law enforcement that such disclosure would not be in the public interest." *Id.* § 7, cl. 26(f). To support their argument, the defendants offer a mere blanket assertion that the requested information contains work product that is exempt under the two subsections above. However, the defendants failed to explain to this court, or to the Supervisor, what specifically requested categories relates to either inter agency policy positions or investigatory materials that law enforcement compiled.

In recent years there has been an evolution concerning the application of an implied exemption for "work product" protection under the public records law exemptions (d) and (f). The SJC's most recent word on this topic is in *DaRosa v. City of New Bedford*, 471 Mass. 446, 447 (2015). *DaRosa* offered the Supreme Judicial Court with the occasion to revisit its decision

[23] Exemption (d) states it its entirety: "inter-agency or intra-agency memoranda or letters relating to policy positions being developed by the agency; but this subclause shall not apply to reasonably completed factual studies or reports on which the development of such policy positions has been or may be based."

in *General Elec Co. v Department of Env't Protection,* 429 Mass. 798 (1999) when it held that the public records law did not have any implied exemptions, not even for work product materials (emphasis added). *Id.* Perhaps less examined until *DaRosa* was a subsidiary, though independent, finding in *General Electric Co.* upholding that portion of the trial court's findings that DEP could withhold certain documents because it established that they were exempted as "policy deliberations" under exemption (d). This holding did not rest on any determination as to whether or not the responses were also deemed to be work product. *Id.* The lesson of *General Electric Co.* seemed to be that there were no implied exemptions under the public records law. Yet, over time, it has emerged that the subsidiary finding in *General Electric Co.* has paved the way for the Court to take an expansive view of exemption (d) such that it incorporates a circumspect work product exemption.

In *DaRosa*, the Court took a more nuanced approach to implied exemptions under the public records law. It built on the foundation it laid in 2007 of the attorney-client privilege as a valid, albeit implied, exemption under the public records law. The *DaRosa* Court stated it "no longer [held] to the view declared in *General Electric* that there are no implied exemptions to the public records act... [i]n *Suffolk Construct. Co. v Division of Capital Asset Mgt.*, 449 Mass. 444, 445-446, 455-461... we concluded that communications within the attorney- client privilege are impliedly exempted from the definition of 'public records' and therefore protected from public disclosure under the act." *Id.* at 453. *DaRosa* then signaled the Court's continuing retreat from the strict construction of exemptions under the public records law announced in *General Electric Co.*

The Court charged course from *General Electric Co.* Instead of jettisoning any sort of work product exemption under the public records law, in *DaRosa* it grafted onto exemption (d)

under G. L. c. 4, § 7, cl. 26 much of what is commonly understood to be "work product" as defined under Mass. R. Civ. P. 26 (b)(3). Acknowledging that the term "policy" in exemption (d) is undefined, the Court reasoned that given the legislative history, exemption (d) incorporated from the federal public records law, (the Freedom of Information Act ("FOIA")), its "deliberative process" exemption which includes materials that are prepared to assist an agency's policy formulation process. *DaRosa*, 471 Mass. at 457-458. Given, then, its determination that there is an implicit "deliberative process" in exemption (d), the Court then concluded that: "[a] decision made in anticipation of litigation or during litigation is no less a 'policy' decision and is no less in need of protection from disclosure provided by exemption (d) simply because it is made in the context of litigation." *Id.* at 458.

However, the Court cautioned that exemption (d) and the work product doctrine under Mass. R. Civ. P. 26 (b)(3) are not "coterminous in their sweep." *Id.* at 460 (and cases cited therein). The Court's analysis relied on the two-tier analysis for obtaining work product protected materials under Mass. R. Civ. P. 26 (b)(3); fact-based work product versus opinion-based work product. A records custodian need to carefully parse a request under Mass. R. Civ. P. 26 (b)(3) when deciding whether a "work product" document is a public record or protected under exemption (d). And this is so whether the request comes in the midst of litigation or, as here, as a public records request.[24] In harmonizing the protection under exemption (d) with the discovery standards set forth in Mass. R. Civ. P. 26 (b)(3) for acquiring opinion work product

[24] The Court noted that that the posture of *General Electric Co.* differed because that dispute did not arise in pending litigation, but arose from a public records request. Whereas, in *DaRosa,* the appeal came in the context of a discovery dispute between the parties where Mass. R. Civ. P. 26 and other discovery rules govern the litigants' ability to obtain documents and information in their lawsuit. *DaRosa*, 471 Mass. at 452. Though that difference was not material because the Court instructed that the "administration of justice is better served by requiring a public agency to disclose in discovery any requested fact work product that would be disclosed pursuant to a public records act request - even if it would otherwise be protected under rule 26(b)(3) were it not a public record – rather than requiring a litigation to make a public records act request for these same documents." *Id.* at *460-461.*

and fact work product, the Court reasoned opinion-based and some work product are protected under exemption (d) whereas some factual studies or reports that are "reasonably completed" fall outside of exemption (d) and though they might not otherwise be subject to Mass. R. Civ. P. 26 (b)(3) disclosure, they may well be disclosed under the public records law.

The *DaRosa* Court explained that "decisions regarding litigation strategy and case preparation [*opinion work product*] fall within the rubric of 'policy deliberation.' " *Id.* at 458. It held that if the material:

> is that opinion work product that was prepared in anticipation for litigation for trial by or for a party or a party representative is protected from discovery to the extent provided under Mass. R. Civ. P. 26(b)(3) even where the opinion work product has been made or received by a State of local government employee. So is fact work product that is prepared in anticipation of litigation or for trial where it is not a reasonably completed study or report, or if it is reasonably completed, it is interwoven with opinions and analysis leading to opinions. Other fact work product that has been made or received by a State or local government employee must be disclosed in discovery, even if it would be protected from discovery under rule 26(b)(3) were it not a public record.

Id. at 462. The matter in *DaRosa* was remanded back to the trial court to determine whether the requested documents, even if "work product," were protected under exemption (d). *Id.* at 461.

In the instant case, the court agrees with the Supervisor and finds that these defendants have failed to meet their burden to demonstrate how any of the requested categories of documents come within the definition of work product under Mass. R. Civ. P. 26 (b)(3) and exemption (d). The defendants failed to demonstrate with specificity that the requested information is protected work product and thus does not excuse the defendants' failure to comply with the Supervisor's order.

2. Any Response to the Request Would Require Them to Create a New Record

The defendants failed to demonstrate how complying with the request would require them to create a record. The requested information is located in the defendants' databases. To

comply with the request, the defendants must presumably run a query of that data, export the data, and then translate it into a spreadsheet or other similar format. In addition, the Superior Court (Sosman, J.) considered and rejected the same argument in ruling on the parties' motions for summary judgment in the *Globe Newspaper Co.* case. See *Globe Newspaper Co.* v. *Conte*, 2001 WL 835150, at *9 (Mass. Super. 2001) ("Using a computer program to translate the [electronically stored] information in those fields into a comprehensible form on paper d[id] not involve 'creation' of a new record."). The SJC did not address this argument in *Globe Newspaper Co.* when it affirmed, on other grounds, the Superior Court's allowance of the Boston Globe's motion for summary judgment. *Globe Newspaper, Co.*, 439 Mass. at 375. Nonetheless, this court finds the Superior Court's reasoning in *Globe Newspaper Co.* persuasive and concludes that the request in this case does not require the defendants to create a record.

3. The Requests Do Not Violate The Uniform Trial Court Rules

The defendants' argument that the Trial Court Uniform Rules on Public Access to Court Records prohibit disclosing the requested information is unavailing. The defendants cite the notes to Rule 4, which state that "[a]n attempt to duplicate in whole or substantial part any of the case management databases would be burdensome to court personnel and could cause unwarranted harm to litigants, victims, witnesses, and jurors." Notes to Uniform Rules on Public Access to Court Records Rule 4. The defendants, however, ignore the text of this rule. Rule 4 provides that "[r]equests for bulk distribution of court record information shall not be granted except where explicitly required by law, court rule, or court order." *Id.* As discussed above, the Public Records Law requires the defendants to produce the requested information in this case. The defendants also point to the notes to Rule 5(a)(2), which discuss the balance between the public's right of access and CORI. See Notes to Uniform Rules on Public Access to Court

Records Rule 5(a)(2). But nothing in the notes indicates that the defendants are prohibited in this case from producing the requested information. To the contrary, the notes' description of the balance between the public's right of access and CORI suggests that the defendants are required to produce the requested information. *Id.* ("[A]llowing the public to view the progress and resolution of individual proceedings by case number allows for the contemporaneous review of judicial proceedings in the forum of public opinion, . . . without allowing for criminal offender record information to be easily assembled from the Internet Portal [internal citations, quotations, and modifications omitted].")

This defense does not excuse the defendants' failure to comply with the order from the Supervisor to product the requested information.

CONCLUSION

Accordingly, the defendants have not met their burden and the Attorney General is entitled to judgment as a matter of law and a declaration that the requested information is public record and that these defendants must produce these records.

ORDER

For the foregoing reasons, it is hereby **ORDERED** that the Attorney General's motion for summary judgment is **ALLOWED**. The information requested by the Boston Globe reporter is a public record; and the Plymouth County District Attorney, the Worcester County District Attorney, and the Cape and Islands District Attorney shall produce the requested information within ninety (90) days of the date of this order.

It is further ordered that the following Declaration be entered:

1. That the following requested fields of data contained within the district attorneys' case management databases, which are also found in a court record, are

public records and must be disclosed pursuant to the Public Records law: Offense Date; Case filing Date; Docket number; Court name where the case was handled; Criminal Count Number; Charge/crime Code; Charge/crime Description; Charge/crime Type; Department that filed the charge; Way charge was initiated; Defendant Race/Ethnicity; Defendant 's Gender; Judge's Name who handled the disposition; Disposition Date; Disposition Code; Disposition Description; Disposition Type; Disposition/sentence recommended by prosecutor for each charge; Sentence Type; Sentence Description and Case status.

2. The following fields of data contained within the district attorneys' case management databases, although not found in a court record, are public records and must be disclosed pursuant to the Public Records Law because the defendants failed to make a specific showing that those records are exempt under the Public Records Law and/or constitute privilege information protected from disclosure: Case ID and Defendant ID number.

So ordered.

ROSEMARY CONNOLLY
Justice of the Superior Court

DATED: November 15, 2018